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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES T.,

Plaintiff,

v.

ANDREW M. SAUL, Commissioner  
of Social Security,<sup>1</sup>

Defendant.

Case No. 2:18-cv-08794-KES

MEMORANDUM OPINION AND  
ORDER

**I.**

**BACKGROUND**

Plaintiff James T. (“Plaintiff”) applied for Social Security disability benefits in March 2015, alleging disability commencing December 18, 2014.

Administrative Record (“AR”) 238-39. On August 11, 2017, an Administrative Law Judge (“ALJ”) conducted a hearing at which Plaintiff, who was represented by an attorney, appeared and testified, as did a vocational expert (“VE”). AR 123-

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<sup>1</sup> Mr. Saul was sworn in as Commissioner of Social Security in June 2019. See <https://blog.ssa.gov/social-security-welcomes-its-new-commissioner/>. Accordingly, he is substituted for Ms. Berryhill pursuant to Federal Rule of Civil Procedure 25(d).

57. On December 13, 2017, the ALJ issued an unfavorable decision. AR 23-49. The ALJ found that Plaintiff suffered from medically determinable severe impairments consisting of central sleep apnea; osteoarthritis of the left shoulder; lumbar degenerative disc disease without nerve root compression; depression; and anxiety. AR 28. Despite these impairments, the ALJ found that Plaintiff had a residual functional capacity (“RFC”) to perform medium work as defined in 20 C.F.R. § 404.1567(c) with some additional restrictions. AR 37. Of relevance here, the ALJ found that Plaintiff could “sit, stand or walk up to 6 hours in an 8 hour workday.” Id.

Based on the RFC analysis and the VE’s testimony, the ALJ found that Plaintiff could work as an order filler (Dictionary of Occupational Titles [“DOT”] 922.687-058), packager (DOT 920.587-018), and laundry worker (DOT 361.685-018) (collectively, the “Alternative Jobs”). AR 42. The ALJ concluded that Plaintiff was not disabled. AR 43.

## II.

### ISSUE PRESENTED

This appeal presents the sole issue of whether substantial evidence supports the ALJ’s finding that Plaintiff can do the Alternative Jobs. (Dkt. 23, Joint Stipulation [“JS”] at 4.) Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Richardson v. Perales, 402 U.S. 389, 401 (1971).

## III.

### DISCUSSION

#### A. Summary of Relevant Administrative Proceedings and Rulings.

The regulation cited by the ALJ defines medium work as follows: “Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.” 20 C.F.R.

1 § 404.1567(c). Light work, in turn, is defined as work with lower frequent lifting  
2 requirements that “requires a good deal of walking or standing.” 20 C.F.R.

3 § 404.1567(b).

4 The Social Security Administration (“SSA”) has promulgated a Social  
5 Security Ruling (“SSR”) that better quantifies the walking and standing  
6 requirements for medium and light work. 20 C.F.R. § 402.35(b) (defining SSA’s  
7 authority to publish SSRs). SSRs do not have the force of law. Nevertheless, they  
8 “constitute Social Security Administration interpretations of the statute it  
9 administers and of its own regulations,” and are given deference “unless they are  
10 plainly erroneous or inconsistent with the Act or regulations.” Han v. Bowen, 882  
11 F.2d 1453, 1457 (9th Cir. 1989).

12 The SSA has determined that, like light work, “[a] full range of medium  
13 work requires standing or walking, off and on, for a total of approximately 6 hours  
14 in an 8-hour workday in order to meet the requirements of frequent lifting or  
15 carrying objects weighing up to 25 pounds,” because “frequent” means “occurring  
16 from one-third to two-thirds of the time.” SSR 83-10, 1983 SSR LEXIS 30, 1983  
17 WL 31251, at \*6 (Jan. 1, 1983). The Ninth Circuit has relied on SSR 83-10 in  
18 determining the sitting, walking, and standing requirements of sedentary and light  
19 work, both of which are subsumed by the medium work limitations, and the latter  
20 of which includes the same standing and walking requirements. See Aukland v.  
21 Massanari, 257 F.3d 1033, 1035-36 (9th Cir. 2001) (“Social Security Ruling 83-10  
22 defines ‘occasionally’ as ‘occurring very little up to one-third of the time.’  
23 ‘[P]eriods of standing or walking should generally total no more than about 2 hours  
24 of an 8-hour workday, and sitting should generally total approximately 6 hours of  
25 an 8-hour workday.’ Id. . . . Pursuant to these rulings and regulations, it is true that  
26 ‘to be physically able to work the full range of sedentary jobs, the worker must be  
27 able to sit through most or all of an eight hour day.’”); Macri v. Chater, 93 F.3d  
28 540, 546 (9th Cir. 1996) (“However, there is no logical nexus between the

1 completion of an electronics course and an ability to perform light work, which  
2 includes lifting up to 20 pounds, frequently lifting up to 10 pounds, and ‘standing  
3 or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.’  
4 Social Security Ruling 83-10; see also 20 C.F.R. § 404.1567(b).”).

5 At the hearing, the ALJ asked the VE to assume a hypothetical worker “who  
6 has the capacity to do medium work” with some additional limitations. AR 153.  
7 The hypothetical question posed to the VE did not specify any limitations on  
8 lifting, walking, or standing other than referencing “medium” work. *Id.* The VE  
9 answered this hypothetical question by identifying the three Alternative Jobs, all  
10 classified as medium work by the DOT.<sup>2</sup> AR 154. Plaintiff’s counsel did not ask  
11 the VE any questions. AR 155. The ALJ relied on the VE’s testimony to find that  
12 Plaintiff could do the three Alternative Jobs. AR 42.

### 13 **B. Analysis of Claimed Error.**

14 Plaintiff contends that by referencing medium work (rather than an express  
15 limitation to sitting, standing, or walking for up to 6 hours in an 8 hour workday),  
16 the ALJ posed to the VE an incomplete hypothetical that did not include all of the  
17 limitations in the RFC. (JS at 5-6.) As a result, the VE’s answer was not  
18 substantial evidence on which the ALJ could rely. (*Id.*)

19 SSR 83-10 was published in 1983. Since that time, ALJs and VEs with  
20 experience conducting social security disability benefits hearings have understood  
21 medium work as requiring the ability to stand or walk for up to 6 hours. There is  
22 no reason to think that the ALJ and VE in this case lacked that understanding.  
23 Thus, the ALJ’s reference to medium work supplied a 6-hour limitation on walking  
24 and standing, and the ALJ did not pose an incomplete hypothetical to the VE.

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26 <sup>2</sup> The DOT’s definitions of light and medium work track the definitions in  
27 20 C.F.R. § 404.1567(b) and (c), although worded slightly differently (e.g.,  
28 “exerting force” rather than “lifting”). DOT Appendix C.

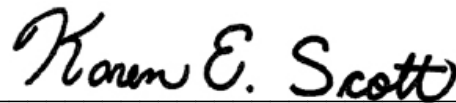
1 Plaintiff also argues that SSR 83-10 is not entitled to deference because it is  
2 inconsistent with 20 C.F.R. § 404.1567(c) and does not implicate the  
3 Commissioner's expertise. (JS at 12-13.) Plaintiff fails to identify (let alone  
4 explain) the alleged inconsistency, and interpreting definitions within the  
5 regulations falls within the Commissioner's expertise. Furthermore, as noted  
6 above, the Ninth Circuit has endorsed relying on SSR 83-10 in determining the  
7 standing and walking requirements of different exertional categories of work. See  
8 Aukland, 257 F.3d at 1035-36; Macri, 93 F.3d at 546.

9 **IV.**

10 **CONCLUSION**

11 Because Plaintiff has not demonstrated legal error, IT IS ORDERED that  
12 judgment shall be entered AFFIRMING the decision of the Commissioner.

13  
14 DATED: July 10, 2019

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16 KAREN E. SCOTT  
17 United States Magistrate Judge  
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